

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

St. Mary's Bank

v.

Civil No. 10-cv-303-LM

Citizens Bank New Hampshire, et al.

O R D E R

The court hereby dismisses from this action defendants Five Point Capital, Inc. and Marlin Leasing, for lack of proper service of process.

In so ruling, the court has considered the fact that this is an interpleader action, where named defendants are in the position of asserting interests in the interpleaded funds. The bill of interpleader in this case (doc. no. 1-1) contains no factual allegations showing that these two defendants have any potential interest in the excess foreclosure funds, which are the interpleaded funds in this case. In contrast, the bill of interpleader alleges specifically, as to all remaining defendants in this case, that they have encumbrances and liens against the foreclosed property that are registered with the Hillsborough County Registry of Deeds (doc. no. 1-1, ¶8).

Defendants Five Point Capital, Inc. and Marlin Leasing are
therefore dismissed from this case.

SO ORDERED.



Landya B. McCafferty
United States Magistrate Judge

December 15, 2010

cc: Lynmarie C. Cusack, Esq.
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